Stephen Disselkoen, Kaitlyn Disselkoen, Alexander Szecsku

Senate Brief for "Substitute For: House Bill No. 4629"
Requested By: Senator Tom Casperson, 38th District | 10/2/13

PROBLEM #1: Section 11 (3) - Page 25 Line 27; Page 26 Line 4.

Penalties for suspected vegetation removal without a permit in front of a billboard (guilty until proven innocent) range from a small fine to **forced removal of the sign. Sign removal can total $1,000,000+ in penalties** in the case of losing a prime location with digital screens. The range of penalties is too wide and too severe (from $100 fine to $1,000,000+ when a primed sign is removed).

FIXES:

1) The MDOT has been known to jump directly to the removal-of-sign provision instead of starting with a lower penalty provision. **Adding the phrase** "as a last resort" following the phrase "remove the sign under section 19" would adequately correct this.

2) In the same sections regarding vegetation (11-3, page 26 Line 4), it would be beneficial for the industry if the legislation were to **outline in which cases a small penalty is assessed, and in which cases sign removal is sought by the MDOT.** This should not be left to subjectivity. Moreover, other sections of this proposed legislation outline staggered penalties for first versus second offenses; so why not here? Penalties could be outlined here as well. (See Page 42, lines 16 & 18 of Section 17 for an example of this).

3) Section 11-3, Line 12; Consider removing "property owner, or a property owner's agent." Sign owners cannot control property owners and/or their agent's actions, yet sign owners will be held responsible for any unpermitted maintenance (mowing, cutting, trimming, etc) that took place without a permit done by any third party. These are matters outside of a sign owners' control. Moreover, the department is capable of, and has sought, sign removal in many of these cases. This language furthers the MDOT's ability to do so without sufficient due process.

4) In cases when a 1-year suspension of advertising is enforced by the MDOT, as a penalty on a sign under Section 11-3, clarification is required so that suspension does not constitute "sign abandonment". Section 17A-1 indicates that a nonconforming sign that has not displayed a message for 1-year shall be considered abandoned. But, in a down economy many signs go a full year without being leased to clients (esp in Northern Michigan). Furthermore, how would the MDOT monitor this? This line should be eliminated or modified to say that a sign is "abandoned" after 3-5 years of no advertising, not 1-year.

PROBLEM #2: Section 17 (3) Page 38, Line 14; and Section 17 (11) Line 27, page 39; and lines 1 & 2 on page 40

Concerning changes to spacing requirements for digital billboards: We do not object to the new spacing requirement of 1,750 feet for all ***new*** digital signs, however, the language is not sufficiently clear and does not offer proper ***grandfathering*** for existing digital signs that were erected lawfully prior to the passing of this new bill. This is of concern because, if these signs are not clearly grandfathered as "legal," then the State of Michigan will once again be establishing non-conforming signs. The term "non-standard signs" was introduced in this legislation as a corrective measure to previous legislation's the spacing changes; let's not repeat the mistake that caused thousands of legal billboards to lose their classification, resulting in problems today.

FIXES:

1) In Section 17 (11) **the date** should read "at the passing of this bill" in place of "March 23, 1999". This will prevent a digital sign legally erected prior to the passing of this new bill from being defined as anything but still conforming with regard to spacing. Otherwise the corrective actions to "Reduce Non-Conformity" will simply create non-conformity again. And, if current conforming digital signs become non-conforming, the assets are destroyed because only 40% of a non-conforming sign's value can be replaced each year…and how can one replace only 40% of a television screen when it burns out? If digitals can't be replaced, it costs sign companies $1,000,000+ per sign when the MDOT says replacement is not an option because of non-conforming maintenance rules.

2) In this same sentence, Section 17 (11), we must do more than say that currently lawful digital signs avoid the classification of "non-conforming" when the spacing changes. We must speak affirmatively. What *do* these signs become if they are *not* non-conforming? They should not become "non-standard" signs because those have limitations on how much they can be maintained or upgraded. Therefore, Section 17 (11) should read: "**Nothing in this section shall be construed to cause a sign (or just digital sign) legally erected prior to the enacting of this bill to change its current classification.**" A line like this is already used in reference to non-standard billboards within this bill, so applying the same language to this section will equally protect digital billboards. (Ideally, the sentence should say that these signs remain "conforming" but this term is not outset in the definitions of the bill.)

PROBLEM #3

MDOT erects its own digital signs on the freeways. Sometimes MDOT taps into power lines that were previous paid for and installed by sign companies. As a result, MDOT signs are often close to billboards and on occasion **severely block billboard visibility**, rendering billboard assets useless or causing a severe reduction in advertising value/revenue.

FIX:
Current legislation prevents MDOT from planting trees within the viewing zone of billboards. The same preventions should be applied to MDOT regarding placement of signage, including digital signs. Please address this issue.